

### **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections set forth in the Advisory Action dated June 2, 2009 and the Final Office Action dated May 13, 2009 are respectfully requested in view of the arguments and amendments presented herein.

This amendment is timely filed in view of an extension of time submitted herewith.

#### **Status of the Claims**

In the present response, claims 20, 33, and 45 are amended and no claims are added. Claims 1-19, 21-32, 34-44, 46-55, and 57 have been cancelled. Therefore, claims 20, 33, 45, and 56 are pending in the application with claims 20, 33, and 45 being independent.

#### **Explanation and Entry of Amendment**

By this amendment, Applicants amend independent claims 20, 33, and 45 to include subject matter of now cancelled dependent claims. Accordingly, no new matter has been added by the amendments.

Applicants respectfully request that this amendment be entered. Applicants respectfully submit that the present amendment places the application in condition for allowance, as discussed in more detail below. Applicants also submit that the present amendment does not raise new issues or necessitate the undertaking of any additional search of the art, since all of the elements and their relationships now claimed were earlier claimed. Applicants also submit that the present amendment would place the application in better form for appeal, should the Office continue to dispute the patentability of the pending claims.

#### **Interview Summary**

Applicants would like to thank Examiner Negin for conducting a telephone interview on July 17, 2009 with Applicants' representative, Steve Helmer. During the

interview, written description and enablement were discussed as described in more detail below.

### **Response to § 112 Rejections**

Claims 20, 23-34, and 36-56 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement for the reasons set forth at pages 4-5 of the Final Office Action.

Claims 20, 23-34, and 36-56 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement for the reasons set forth at pages 5-6 of the Final Office Action.

The Advisory Action asserts (emphasis added):

[P]aragraphs 63-65 and Figure 4 of the disclosure teach two configurations wherein in one configuration, the signal of the one of the two components is above the range of the photodetector, and in the other configuration, the signal of the other of the two components is below the range of the photodetector, these two configurations are taught in the alternative in the specification.

In response, Applicants note that the first and second configurations are “alternative” configurations of the same photodetector. As noted in paragraph [0053] of the published version of the present application, the manner in which the detector operates may be adjusted. Paragraph [0053] also states that the configuration of the detector may be adjusted such that the output of the detector is adjusted. In view of the above, a skilled artisan would understand that photodetectors may be adjusted into different configurations. These are the first and second configurations discussed, e.g., in paragraphs [0063] and [0064]. As an example of different configurations, exposure time may be adjusted. See, e.g., paragraphs [0074]-[0077].

The Advisory Action also asserts (emphasis added):

[T]here is no teaching in the disclosure that supports or enables two configurations wherein in each configuration there is a component that is above the range of the photodetector in one configuration AND another configuration wherein a component is below the range of the photodetector in the second configuration.

In response, the present claim language does not recite that "in each configuration there is a component that is above the range of the photodetector in one configuration."

Although Applicants disagree with the rejection, in order to advance prosecution, the claims have each been amended to even more clearly recite the present invention. Specifically, as discussed during the interview, the independent claims have been amended to recite subject matter that was previously recited in dependent claims.

In view of the above, Applicants respectfully request withdrawal of this ground of rejection.


### **CONCLUSION**

In view of the foregoing, Applicants submit that all outstanding issues in this case have been resolved, and that all pending claims in their current form are allowable. A Notice of Allowance is therefore respectfully requested. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-3994.

If a telephone conference would expedite the prosecution of the subject application, the Examiner is requested to call the undersigned at (650) 554-3414.

Respectfully submitted,

Date: 7/30/09

  
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